Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Policy and Rules Concerning the Interstate, Interexchange Marketplace	)	CC Docket No. 96-61
	)	
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	
	)	
1998 Biennial Regulatory Review — Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets	)	CC Docket No. 98-183

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the incumbent LEC-provided access lines in the U.S. USTA's member companies are subject to the current restrictions which prevent common carriers from bundling equipment and services together and offering such bundles to customers.

In a Further Notice of Proposed Rulemaking (FNPRM) released October 9, 1998, the Commission is requesting further comment on whether its current rules which prohibit telecommunications carriers from bundling telecommunications services with CPE and restrict bundling telecommunications services with enhanced services are no longer necessary and

whether bundles of goods and/or services can provide benefits to consumers. USTA has already recommended that the Commission delete Section 64.702 of its rules as market conditions have changed such that the continuation of this rule would impede the development of a truly competitive market. Therefore, USTA urges the Commission to permit incumbent LECs to bundle CPE and enhanced services with their interexchange and exchange and exchange access services.

In its Petition for Rulemaking filed September 30, 1998, USTA undertook a comprehensive review of the Commission's rules as required under Section 11 of the Telecommunications Act of 1996. USTA proposed principles to guide the public interest analysis that must be conducted. Based on its analysis, USTA recommended that Section 64.702 be eliminated.

As the Commission itself observes, competitive market forces are far superior to regulation in the determination of efficient levels of output, investment and price. Where market forces can be relied upon, the Commission should do so. To avoid creating uneconomic incentives which would result in inefficient investment, asymmetric regulatory restrictions imposed on only one class of competitor must be eliminated when the market is *first* opened to competition. The Commission should promote fair competition by establishing a level playing field for all participants and allowing the market to determine the winners or losers. Consumers will benefit from policies that foster overall economic efficiency, not policies that protect certain competitors or certain technologies.

In the FNPRM, the Commission requests parties to speculate as to what might occur if the bundling restrictions were removed. Certainly every current and potential competitor of an incumbent LEC will oppose any regulatory relief for incumbent LECs. These competitors know that asymmetric regulation gives them an advantage by adding costs which these competitors do not bear, providing competitors with valuable market information which competitors do not have to divulge and delaying incumbent LEC market responses. Instead, the Commission should be requesting comment on what was the original purpose of the regulation, comparing the relevant market conditions when the rule was promulgated to the current market conditions, analyzing the impact of the rule on the regulated entity and then determining whether the public interest would be served by eliminating the rule. In accordance with a truly pro-competitive, deregulatory telecommunications policy as required by the Act, the presumption should be to eliminate or modify current regulations, not to justify their continued existence.

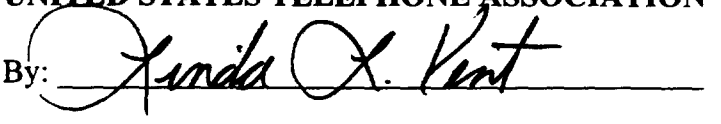
Section 64.702 was promulgated in the early 1980's, before divestiture, in an effort to promote competition in the provision of customer premises equipment (CPE) and enhanced services. Almost twenty years later, it is clear that that goal has been accomplished. The market conditions which existed in the early 1980's compared to the late 1990's are completely different. Global competitors such as AT&T and MCI/WorldCom can package local, long distance, data and wireless services. These companies and others are building broadband networks to package voice, video and digitized information. Within the rapidly evolving digital telecommunications environment, it is increasingly difficult to differentiate between equipment and service. This rule only serves to prevent incumbents from providing the same service packages that their unregulated competitors can offer customers. It can hardly serve the public interest to maintain a

policy whereby customers cannot benefit from bundled service and equipment packages because incumbents cannot provide that benefit. This rule cannot withstand even the most rudimentary scrutiny and must be eliminated.

The Commission has sufficient authority to ensure that rates, practices and classifications are just, reasonable and not unjustly or unreasonably discriminatory. The Commission has sufficient rules in place to enforce its authority. Section 64.702 has outlived its purpose and is now restricting fair and full competition. It should be eliminated in its entirety.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: 

Its Attorneys:

Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W. Hunter

1401 H Street, NW, Suite 600
Washington, D. C. 20005
(202) 326-7248

November 23, 1998